

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,
Plaintiff, Counter-defendant,
v.
APPLE INC.,
Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

JOINT STATUS REPORT

The Honorable Thomas S. Hixson
San Francisco Courthouse
Courtroom E - 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Magistrate Judge Hixson,

Pursuant to Your Honor's Discovery Standing Order, the Parties in the above-captioned action respectfully submit this joint statement related to the evidentiary hearing concerning Plaintiff Epic Games, Inc.'s ("Epic") Motion to Enforce Injunction (Dkt. 897 (the "Motion")).

Respectfully submitted,

CRAVATH, SWAINE
& MOORE LLP

By: /s/ Yonatan Even
Yonatan Even
Counsel for Epic Games,
Inc.

WEIL, GOTSHAL
& MANGES LLP

By: /s/ Mark A. Perry
Mark A. Perry
Counsel for Apple Inc.

Epic's Position:

Epic writes to update the Court on two points, as follows:

First, the Special Masters continue their review of Apple's re-reviewed production for claims of privilege. They have roughly 8,600 documents remaining to review as of Tuesday evening. Epic expects that the Special Masters will conclude their review by the end of May.

Second, Apple has acknowledged overbroad claims of privilege in several of its Responses to Epic's filed Objections. In an effort to alleviate some of the burden the Objections and Responses place on the Court, Epic provides here its position on certain of Apple's proposals to produce lesser-redacted versions of certain documents for which Epic objected to the privilege determinations.¹

- Epic agrees to Apple's offer to produce PRIV-APL-EG_00150518 and PRIV-APL-EG_00150820 "with those redactions indicated on CX-0538 (and with none of the additional content [on these versions of the document] redacted)". (Dkt. 1313 at 2.)
- Epic agrees to Apple's offer to produce PRIV-APL-EG_00087407 "with the redactions indicated in CX-0223". (Dkt. 1342 at 2.)
- Epic agrees to Apple's offer to produce PRIV-APL-EG_00254277 with redactions to the slides on pages PRIV-APL-EG_00254300–02, which correspond to PRIV-APL-EG_00226270–72 of PRIV-APL-EG_00226239, already in Epic's possession. (Dkt. 1342 at 2.)
- Epic agrees to Apple's offer to produce PRIV-APL-EG_00087398 "with the same redactions indicated on [admitted exhibit] CX-1103". (Dkt. 1342 at 3.)
- Epic agrees to Apple's offer to produce PRIV-APL-EG_00086654 and PRIV-APL-EG_00086846 with the same redactions indicated on PRIV-APL-EG_00095151. (Dkt. 1342 at 4.)

At this time, Epic does not believe a status conference before Your Honor is necessary.

Apple's Position:

On February 24–26, 2025, Judge Gonzalez Rogers held a further evidentiary hearing regarding Epic's Motion to Enforce Injunction. At the conclusion of the hearing, the Court indicated the parties could "expect that a decision will come out pretty quickly." Hr'g Tr. 1915:21–24 (Feb. 26, 2025). The parties submitted simultaneous post-hearing briefs on March 7, 2025. The Court has since advised that it does not expect a need for further briefing. *See* Dkt. 1339.

¹ Although Epic agrees to the production of certain documents with redactions that are consistent with the redactions applied to substantially similar documents admitted as exhibits at the Evidentiary Hearing, Epic preserves its rights with respect to documents the Court has not definitively held to be privileged. (*See, e.g.*, Dkt. 1365 at 11 n. 7.)

As of the filing of this status report, the Special Masters have reviewed approximately 15,305 documents and have 8,478 remaining to review. Of the total documents they have reviewed so far, the Special Masters have sustained in full about 93.7% of Apple's privilege assertions, sustained in part about 0.4% of the assertions, and overruled in full less than 6% of the assertions. The Special Masters have requested additional information related to 0.6% of the documents.

Apple will produce the documents identified in Epic's portion of the insert no later than April 1, 2025.

Apple respectfully submits there are no issues before Your Honor for resolution except the pending objections to certain of the Special Masters' determinations. Apple submits it does not have any items requiring discussion at the status conference, but as always, is prepared to attend should Your Honor have any issues to discuss with the parties.

Respectfully submitted,

DATED: March 27, 2025

CRAVATH, SWAINE & MOORE LLP
By: /s/ Yonatan Even
Counsel for Plaintiff Epic Games, Inc.

WEIL, GOTSHAL & MANGES LLP
By: /s/ Mark A. Perry
Counsel for Defendant Apple Inc.